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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

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Karlton Stephenson,

Plaintiff,

*versus*

C.M. Duncan,

Defendant.

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Civil Action H-11-2243

### Order on Malicious Prosecution

1. On C.M. Duncan's oral motion to reconsider the court's ruling on Karlton Stephenson's claim for malicious prosecution, the court concludes (1) Stephenson has no freestanding constitutional right to be free from malicious prosecution, and (2) Stephenson has not identified a specific constitutional right infringed by the malicious prosecution. The Fourth Amendment offers the proper redress because the alleged violation of his constitutional right to be free from unreasonable seizure occurred during the pretrial events and arrest. If his claim was labeled as a malicious prosecution, it would merely invite confusion.<sup>1</sup>
2. On Stephenson's claim for malicious prosecution, he takes nothing from Duncan.

Signed on March 3, 2015, at Houston, Texas.



Lynn N. Hughes  
United States District Judge

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<sup>1</sup> Castellano v. Fragizo, 352 F. 3d. 939, 953-955 (5th Cir. 2003) (citing Albright v. Oliver, 510 U.S. 266, 271-273 (1994)); Olvera v. Alderete, No 4:10-cv-2127, WL 4962964 at \*8 (S.D. Tex. Dec. 1, 2010) (unpublished).